IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5194 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VADIA GRAM PANCHAYAT

Versus

UNDBHAI BHANABHAI VALA

Appearance:

1. Special Civil Application No. 5194 of 2001

MR HS MUNSHAW for Petitioner No. 1

MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/09/2002

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is taken up for final disposal today.

2. The present petition is filed challenging the judgment and award of the Labour Court, Amreli, in Reference no.62/1999 whereby the learned Judge was pleased to declare that the order terminating the respondent-workman by an order dated 9th August, 1999 is illegal, unjust and violative of principles of natural justice, the same was quashed and set aside. The learned Judge was pleased to order reinstatement with 50% backwages.

3. Mr. H.S. Munshaw, learned Advocate appearing for the petitioner submitted that the respondent-workman was working as a Pump Operator, and he was in the habit of remaining absent unauthorisedly. He also contended that the order passed by the Labour Court of quashing and setting aside the order dated 9th August, 1999 is unwarranted in the facts of the case, and in any case, the reinstatement with 50% backwages is very harsh to the petitioner-Vadia Gram Panchayat which is a public body and payment of 50% backwages will result into a drain of public exchequer as idle wages will be required to be paid to an employee to the extent of 50%. Taking into consideration the fact that the Labour Court has recorded a finding of fact after coming to the conclusion that the order dated 9th August,1999 is illegal, unjust and violative of the principles of natural justice and has awarded reinstatement with 50% backwages, which cannot be interfered by this Court. But with a view to serve the ends of justice, the present petition is partly allowed. The judgment and award of the Labour Court is modified by reducing the payment of backwages to 30%. However, the petitioner Panchayat is directed to pay 50% backwages for the period from the date of the award till the date of reinstatement.

4. The respondent-workman is directed to give an undertaking to the Panchayat to the effect that he will serve regularly and will see to it that in future he does not remain unauthorisedly absent.

5. The petition succeeds to the aforesaid extent only. Rule is made absolute in aforesaid terms.

(Ravi R.Tripathi,J.)

stanley-rrt.